

From: Jason Campbell
To: Microsoft ATR
Date: 1/24/02 3:28am
Subject: Microsoft Settlement

To: Renata B. Hesse
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The proposed Microsoft case settlement is in my opinion fundamentally flawed and wholly inadequate. It should not be adopted without complete revision.

1. Only a separation of the Windows operating system from the Office Suite and from Internet Explorer can 'unfetter' the Windows market and allow competitors to emerge. Only such a three-way breakup of Microsoft can end the company's unlawful conduct. This Proposed Final Judgment is completely inadequate because it does not separate control of Office from control of Windows, and control of Internet Explorer from both Office and Windows.
2. The prohibited conduct provisions of the Proposed Final Judgment cannot be effectively enforced with regard to Microsoft due to the extraordinarily subtle ways in which the company can shift and redefine the operating systems environment to the disadvantage of its competitors. Any effective settlement must lay out enforcement provisions and attempt to address these subtleties.
3. The definitions presented in the Proposed Final Judgment for "middleware", "API", and the "Windows Operating System Product" are vague and easily circumvented by Microsoft. The company can trivially evade the intent of the settlement by altering its product naming and/or distribution schemes in obvious ways. Any reasonable settlement must have its provisions continue in force regardless of minor shifts in Microsoft's nomenclature and marketing spin.
4. The Proposed Final Judgment fails entirely to protect potential competitors to the Windows Operating System because it limits the usage of information disclosed by Microsoft under the settlement to use by those producing competing applications software. Any settlement which is to restore competition to the operating systems marketplace must protect competing operating systems, and facilitate their compatibility with Windows.

In summary, this Proposed Final Judgment is not in the public interest and should not be adopted.

Sincerely,

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